

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

Rules Regulating the Taking and Selling
of Certain Marine Resources

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§13-95-1 Definitions. As used in this chapter, unless otherwise provided:

"Aholehole" means any fish known as *Kuhlia xenura* or *Kuhlia sandvicensis* or any recognized synonym.

"Akule" means any fish identified as *Selar crumenophthalmus* or other recognized synonym. This fish is also known as pa'a'a, halalu, hahalalu, and big-eyed scad.

"Awa" means any fish known as *Chanos chanos* or any recognized synonym.

"Break" means to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.

"Carapace length" means the straight line measurement from the tip of the rostrum to the middle of the trailing edge of the body or carapace, not including the tail.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 13-74-20 and section 189-2, HRS.

"Damage" means to smash, trample, or otherwise cause extensive injury resulting in irreparable harm or death.

"Day" means a twenty-four hour period.

"He'e" means any mollusk known as *Octopus cyanea*, *Octopus ornatus*, or any recognized synonym.

"Kala" means any fish known as *Naso unicornis*, *Naso brevirostris*, *Naso annulatus*, or any recognized synonym.

"Kona crab" means any crab known as *Ranina ranina* or any recognized synonym.

"Kumu" means any fish known as *Parupeneus porphyreus* or any recognized synonym.

"Length" means the straight line measurement from the tip of the snout to the middle of the trailing edge of the tail.

"Live rock" means any rock or coral to which marine life is visibly attached or affixed.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Manini" means any fish known as *Acanthurus triostegus sandvicensis* or any recognized synonym.

"Moano" means any fish known as *Parupeneus multifaciatatus* or any recognized synonym.

"Moi" means any fish known as *Polydactylus sexfilis* or any recognized synonym.

"Mullet" means any fish known as *Mugil cephalus* or any recognized synonym.

"Oio" means any fish known as *Albula glossodonta* or any recognized synonym.

"Opelu kala" means any fish known as *Naso hexacanthus* or any recognized synonym.

"Sell" means to solicit and receive an order for; to have, or keep, or offer, or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; and to traffic in.

"Speared" means to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.

"Slipper lobster" means any crustacean of the species *Scyllarides squammosus* or *S. haani*, or recognized synonyms. These animals are also known as rock lobster, mole lobster, shovel-nosed lobster, or ula papapa.

"Spiny lobster" means any crustacean of the species *Panulirus penicillatus* or *P. marginatus*, or recognized synonyms. These animals are also known as lobster, Hawaiian spiny lobster, red lobster, green lobster, or ula.

"Stony coral" means any of a variety of invertebrate species belonging to the order *Scleractinia* characterized by having a hard, calcareous skeleton that are native to the Hawaiian islands.

"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

"Uhu" means any fish known as *Scarus dubius*, *Scarus psittacus*, *Scarus rubroviolaceus*, *Chlorurus sordidus*, *Chlorurus perspicillatus*, or any recognized synonym.

"Ulua" means any fish known as *Caranx ignobilis*, *Caranx lugubris*, *Caranx melampygus*, *Caranx sexfasciatus*,

Carangoides equula, *Carangoides ferdau*, *Carangoides orthogrammus*, or any recognized synonym. The young of these species are also known as papio.

"Weke" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. These fish are also known as goatfish, yellowstripe goatfish, weke a, and the young of this fish is known as oama. [Eff 12/03/98; am 1/11/02; am Dec 19 2002] (Auth: HRS §§187A-3.5, 187A-5) (Imp: HRS §§187A-3.5, 187A-5)

§13-95-1.1 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

- (1) Licenses issued pursuant to section 187A-3.5, HRS;
- (2) Permits issued pursuant to section 187A-6, HRS;
- (3) Permits issued pursuant to section 188-23, HRS;
- (4) Permits issued pursuant to section 188-37, HRS;
- (5) Permits issued pursuant to section 188-44, HRS;
- (6) Permits issued pursuant to section 188-57, HRS;
- (7) Permits issued pursuant to section 188-68, HRS;
- (8) Licenses issued pursuant to section 189-6, HRS; and
- (9) As may be otherwise provided by law. [Eff Dec 19 2002] (Auth: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68)

§13-95-2 Penalty. A person violating this chapter shall be punished as provided by law. [Eff: DEC 03 1998] (Auth: HRS §§187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4) (Imp: HRS §§187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4)

§13-95-3 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter

which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff: DEC 03 1998] (Auth: HRS §§187A-5, 1-23) (Imp: HRS §§187A-5, 1-23)

§13-95-4 Aholehole. It shall be unlawful for any person to take, possess, or sell any aholehole less than five inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-5 Manini. It shall be unlawful for any person to take, possess, or sell any manini less than five inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6 Moano. It shall be unlawful for any person to take, possess, or sell any moano less than seven inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7 Kumu. It shall be unlawful for any person to take, possess, or sell any kumu less than ten inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 Mullet. (a) It shall be unlawful for any person to take, possess, or sell any mullet less than eleven inches in length.

(b) It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, or have in possession any mullet during the months of December, January, February, and March; provided that any owner or operator of a fish pond may lawfully catch the young mullet known as pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell pond raised mullet during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-9 Awa. It shall be unlawful for any person to take, possess, or sell any awa less than nine inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-10 Oio. It shall be unlawful for any person to take, possess, or sell any oio less than fourteen inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-11 Kala. It shall be unlawful for any person to take, possess, or sell any kala less than fourteen inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-12 Opelu kala. It shall be unlawful for any person to take, possess, or sell any opelu kala less than sixteen inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-13 Opakapaka. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any opakapaka less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared opakapaka less than one pound in weight. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-14 Onaga. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any onaga less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared onaga less than one pound in weight. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-15 Uku. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any uku less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared uku less than one pound in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16 Uhu. It shall be unlawful for any person to take, possess, or sell any uhu less than twelve inches in length. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-17 Ahi. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any ahi less than three pounds in weight.

(b) It shall be unlawful for any person to take

with spear or possess any speared ahi less than three pounds in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-18 Opelu. It shall be unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between the Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-19 Akule. (a) It shall be unlawful for any person to take any akule measuring less than eight and one-half inches in length, with a net during the months of July, August, September, and October.

(b) It is unlawful for any person, other than marine seafood dealers, to possess or sell more than two hundred pounds of akule measuring less than eight and one-half inches in length per day during July, August, September, and October; except as may be otherwise provided by law. [Eff 12/03/98; am JAN 11 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-20 Iao. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured iao taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any iao; provided that the department may issue licenses pursuant to section 13-74-22, to take iao for use as bait only. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-21 Nehu. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured nehu taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu; provided that the department may issue licenses pursuant to section 13-74-22, to take nehu for use as bait only and as maybe otherwise allowed under chapter 13-90. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22 Ulua. (a) It is unlawful for any person to take or possess any ulua less than ten inches in length.

(b) It is unlawful for any person to sell any ulua less than sixteen inches in length.

(c) It is unlawful for any person to take or possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more than twenty such ulua with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes. [Eff Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 87 of Title 13 was based substantially upon Regulation 19 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81] Section 13-95-22 is based substantially upon Chapter 87 of Title 13. [Eff 5/26/81; am 1/25/82; R Dec 19 2002]

§13-95-23 Moi. (a) It is unlawful for any person to take, possess, or sell any moi less than eleven inches in length.

(b) It is unlawful for any person to take, possess, or sell more than fifteen moi per day during September through May; provided that a commercial marine dealer may possess and sell more than fifteen moi with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes.

(c) It is unlawful for any person to take, possess, or sell any moi during June, July, and August. [Eff Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. Section 13-95-23 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R Dec 19 2002]

§13-95-24 Weke. (a) It is unlawful for any person to take or possess more than fifty weke less than seven inches in length per day.

(b) It is unlawful for any person to sell any weke less than seven inches in length. [Eff Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. Section 13-95-24 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R Dec 19 2002]

§13-95-50 Kuhonu crab. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kuhonu crab less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any kuhonu crab while with eggs. Any kuhonu crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any kuhonu crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(c) No person shall pursue, take, or kill any kuhonu crab in the State with a spear.

(d) No person shall offer for sale any speared kuhonu crab. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-51 Kona crab. (a) It shall be unlawful for any person to take, possess, or sell any Kona crab less than four inches in carapace length.

(b) It is unlawful for any person to take, possess, or sell any Kona crab taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(c) The possession of any Kona crab by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve Kona crab lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to take, possess, or sell any Kona crab while with eggs. Any Kona crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(e) No person shall pursue, take, or kill any Kona crab in the State with a spear.

(f) No person shall possess or sell any speared Kona crab. [Eff 12/03/98; am Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-52 Samoa crab. (a) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any samoan crab while with eggs. Any samoan crab with eggs caught must immediately be returned to the waters from which the samoan crab was taken. The possession of any samoan crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(b) No person shall pursue, take, or kill any samoan crab in the State with a spear.

(c) No person shall offer for sale any speared samoan crab. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-53 Spiny lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any spiny lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(b) The possession of any spiny lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve spiny lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to

kill, any spiny lobster while with eggs. Any spiny lobster with eggs caught must immediately be returned to the waters from which the spiny lobster was taken. The possession of any spiny lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any spiny lobster in the State with a spear.

(e) No person shall offer for sale any speared spiny lobster. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-54 Slipper lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any slipper lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(b) The possession of any slipper lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve slipper lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any slipper lobster while with eggs. Any slipper lobster with eggs caught must immediately be returned to the waters from which the slipper lobster was taken. The possession of any slipper lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any slipper lobster in the State with a spear.

(e) No person shall offer for sale any speared slipper lobster. [Eff DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-55 He'e. It shall be unlawful for any person to take, possess, or sell any he'e less than one pound in weight. [Eff Dec 19 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Chapter 86 of Title 13 was based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff. 3/28/58; am 10/6/58; R 5/26/81] Section 13-95-55 is based substantially upon Chapter 86 of Title 13 [Eff 5/26/81; R Dec 19 2002]

§13-95-70 Stony corals. (a) It is unlawful for any person to take stony coral, or to break or damage any stony coral with a crowbar, chisel, hammer, or any other implement.

(b) It is unlawful for any person to sell any stony coral; except that stony coral rubble pieces or fragments imported for the manufacture and sale of coral jewelry or stony coral obtained through legal dredging operations in Hawaii for agricultural or other industrial uses may be sold. [Eff 12/03/98; am Dec 9 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-71 Live rocks. (a) It is unlawful for any person to take live rock, or to break or damage with crowbar, chisel, or any other implement, any rock or coral to which marine life is visibly attached or affixed.

(b) It is unlawful for any person to sell any rock or coral to which marine life is visibly attached or affixed. [Eff 12/03/98; am Dec 9 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)